



Attorney's Docket No.: 12071-017002 / SP-22 US

~~IN THE~~ UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Lee A. Mizzen et al.

Art Unit : 1648

Serial No. : 10/068,059

Examiner : Mary E. Mosher

Filed : February 5, 2002

Confirmation No.: 8333

Notice of Allowance Date: July 27, 2004

Title : . HEPATITIS B VIRUS TREATMENT

MAIL STOP PATENT EXTENSION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(B)

Applicants hereby petition for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent application. Attached herewith is a copy of the Notice of Allowance including a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed July 27, 2004. The Notice of Allowance states that the PTA at allowance is 0 days. Reconsideration of the PTA calculation to decrease Applicant Delay from 98 days to 65 days, and to increase Total PTA from 0 to 11 days, is respectfully requested.

REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

A review of the Patent Term Adjustment History in the PAIR system shows that the United States Patent and Trademark Office (PTO) calculated the PTA as follows:

- A. The PTO mailed a Notice to File Missing Parts on March 14, 2002. The PAIR system indicates “Application Is Now Complete” on July 17, 2002, thereby according an Applicant Delay of 33 days. Applicants respectfully submit that the PTO’s calculation of Applicant Delay contains an error and that the correct Applicant Delay is 0 days, as outlined further below.
- B. The PTO mailed a delayed 14-month first non-final Office Action on June 20, 2003, thereby according a PTO Delay of 76 days. Applicants concur with this patent term adjustment calculation.

CERTIFICATE OF MAILING BY EXPRESS MAIL

09/16/2004 RFEKADU2 00000087 10068059

Express Mail Label No. EV 304816248 US

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200.00 OP

September 14, 2004

Date of Deposit

- C. Applicants submitted a response to the above-referenced non-final Office Action on November 20, 2003. The PAIR system indicates the PTO received the response on November 24, 2003, thereby according an Applicant Delay of 65 days. Applicants concur with this patent term adjustment calculation.

STATEMENT OF FACTS

On March 14, 2002, the PTO mailed a Notice to File Missing Parts (copy enclosed). Applicants submitted a complete and timely Response to the Notice to File Missing Parts on May 30, 2002. The PAIR system and the PTO date-stamped postcard (copy enclosed) indicate that the PTO received Applicants' response on June 4, 2002. As Applicants' complete response was received within the three-month period of response ending June 14, 2002, Applicants should not have been assessed any delay for the response to this Notice.

The application was not marked as "complete" in the PAIR system until July 17, 2002. As Applicant Delay is calculated until the application is "complete," Applicants were unduly accorded a delay of 33 days. Thus, Applicants respectfully request correction of the "Application Is Now Complete" entry in the PAIR system to be dated not later than June 4, 2002 (the date Applicants' response to the Notice to File Missing Parts was received by the PTO).

DOCUMENTS ENCLOSED

A copy of each of the following documents is provided herein:

- 1) Notice of Allowance mailed July 27, 2004;
- 2) Notice to File Missing Parts mailed March 14, 2002;
- 3) Response to Notice to File Missing Parts dated May 30, 2002, and PTO date-stamped postcard indicating receipt date of June 4, 2002.

REMARKS

In consideration of the events described above, Applicants believe the PTA calculation of 0 days is incorrect. Applicants respectfully request reconsideration of the patent term adjustment in the following manner:

- 1) Total PTO Delay should be calculated as 76 days (for a delayed first Office Action); and,
- 2) Total Applicant Delay should be calculated as 65 days (for delayed response to non-final Office Action).

Therefore, Applicants respectfully request the removal of 33 days of Applicant Delay, thus decreasing Applicant Delay from 98 days to 65 days and increasing the Total PTA from 0 to 11 days. Applicants also kindly request correction of the file history in the PAIR system to indicate the application was "complete" not later than June 4, 2002.

Enclosed is a check for the fee of \$200 required under 37 CFR §1.18(e). Please apply any other required charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 12071-017002.

Respectfully submitted,

Date: September 14, 2004

Jack Brennan
Jack Brennan
Reg. No. 47,443

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906



UNITED STATES PATENT AND TRADEMARK OFFICE



Jesse Crews, Ph. D.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

JKF
ML
JQB

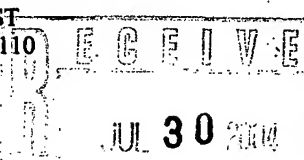
NOTICE OF ALLOWANCE AND FEE(S) DUE

26161

7590

07/27/2004

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110



RECEIVED

JUL 29 2004

FISH & RICHARDSON, P.C.
BOSTON OFFICE

EXAMINER

MOSHER, MARY

ART UNIT

PAPER NUMBER

1648

DATE MAILED: 07/27/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,059	02/05/2002	Lee A. Mizzen	12071-017002	8333

TITLE OF INVENTION: HEPATITIS B VIRUS TREATMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665	\$300	\$965	10/27/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

Docketed By Billing Secretary
Due Date: 9/27/04
Deadline: 10/27/04
Initials: NAB

dkted
CCT



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,059	02/05/2002	Lee A. Mizzen	12071-017002	8333
26161	7590	07/27/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			MOSHER, MARY	
			ART UNIT	PAPER NUMBER
			1648	
DATE MAILED: 07/27/2004				

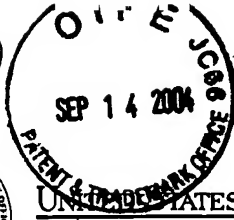
Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/068,059	02/05/2002	Lee A. Mizzen	12071-017002

CONFIRMATION NO. 8333

RECEIVED

FORMALITIES LETTER



OC000000007642131

LEE CREWS, PH.D.
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MAR 18 2002

FISH & RICHARDSON, PC.
BOSTON OFFICE

Date Mailed: 03/14/2002

DOCKETED BY PRACTICE SYSTEMS

Action Code

Base Date

Due Date

Deadline

Initials

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.


For questions regarding compliance to these requirements, please contact:

Docketed By	Billing Section
Due Date:	5-14-02
Deadline:	7-14-02
Initials:	h20

DOCKETED BY PRACTICE SYSTEMS	
Action Code	2M Seq. List
Base Date	3/14/02
Due Date	5/14/02
Deadline	10/14/02
Initials	PEC On

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.



Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

3



PATENT

ATTORNEY DOCKET NO.: 12071-017002

The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant or Patentee Lee A. Mizzen et al.

No. (Application, Appeal, Interference, Patent, Reexam) 10/068,059

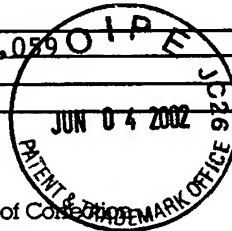
Filing or Issue Date February 5, 2002

Title: HEPATITIS B VIRUS TREATMENT

- ☐ Transmittal Letter (2 Copies) ☐ With Pet. for Ext.
- ☐ Assignment ☐ Status Inquiry
- ☒ ~~XXXXXXXXXX~~ Response 2 Pages ☐ Declaration
- ☐ Maintenance Fee ☐ Request Certificate of Continued Existence
- ☒ Check \$ 55 ☐ Notice of Appeal
- ☐ Deposit Account Order Form (2 Copies) ☐ Appeal Brief (3 Copies) Pages
- ☐ Issue Fee ☐ Request Patent Copies ☒ Petition for Extension Time (1mo., 1pg.)
- ☐ Information Disclosure Statement
- ☐ PTO 1449 Form- Pages
- ☐ Prior Art References-Number of References
- ☐ Drawings Sheets Formal Sheets Informal Sheets Amended
- ☒ Notice of Missing Parts
- ☒ Combined Declaration and Power of Attorney (2pgs.)
- ☐ Small Entity Statement
- ☒ Other Ver. Stmt. (1pg.); Seq. Listing (paper(25 pgs.))+
- Computer Readable format (1 diskette)

Atty/Sec. JKE/dxm Client/
Initials Matter Name Stressgen/Hepatitis B

Date 5/29/02





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lee A. Mizzen et al.
Serial No.: 10/068,059
Filed: February 5, 2002
Title: HEPATITIS B VIRUS TREATMENT

Art Unit: 1653
Examiner:

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

In response to the Notice to File Missing Parts of Application under 37 U.S.C. §1.53(b) mailed March 14, 2002 (copy enclosed), applicant as a small entity submits herewith the following:

- ☒ Payment of the surcharge of \$65 for late filing of the declaration;
- ☒ A Combined Declaration and Power of Attorney in compliance with 37 CFR §1.63; (2 pages)
- ☒ Petition for One-Month Extension of Time (1 page) with appropriate fee;
- ☒ Verified Statement Under 37 CFR §1.821(f) (1 page); and
- ☒ Sequence Listing (paper copy (25 pages); and computer readable format (1 diskette).

Applicants respectfully request entry of the paper copy and computer readable copy of the Sequence listing filed herewith for the instant application. Furthermore, applicants request entry of the following amendments:

In the Specification:

Insert the paper copy of the Sequence Listing filed herewith following the Oath/Declaration.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

Signature

Typed or Printed Name of Person Signing Certificate

May 30, 2002

Darlene J. Morin

Darlene J. Morin

Applicant : Lee A. Mizzen et al.
Serial No. : 10/068,059
Filed : February 5, 2002
Page : 2

Attorney's Docket No.: 12071-017002

REMARKS

Applicants hereby submit that the enclosures fulfill the requirements under 37 C.F.R. §1.821-1.825. The amendments in the specification merely insert the paper copy of the Sequence Listing in the specification. No new matter has been added.

It is understood that this perfects the application and no additional papers or filing fees are required. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 12071-017002.

Respectfully submitted,

Date: _____

May 30, 2002

Jack Brennan

Jack Brennan
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